

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

David S. Owens

No. **19-cv-10213**

Write the full name of each plaintiff.

(To be filled out by Clerk's Office)

-against-

COMPLAINT

(Prisoner)

the City of New York, Lieutenant
Carmin Semioli, Police Officer
Luis Torres, Police Officer Lindsey
Robbles, see attached sheet of paper

Do you want a jury trial?

☒ Yes ☐ No

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

RECEIVED
SD: JAMES E. OFFICE
202 MAR 17 PM 2:30

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

Defendants

Police Officer John Doe, Arresting Officer
John Doe, Arresting Officer John Doe

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ ☒ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

David S. Owens
 First Name Middle Initial Last Name

~~REDACTED~~

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

18A2545, NYSID Number: 5325148Y

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

Auburn Correctional Facility

Current Place of Detention

P.O. Box 618

Institutional Address

Auburn,

County, City

~~REDACTED~~ N.Y.

State

13024

Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

☐ Pretrial detainee

☐ Civilly committed detainee

☐ Immigration detainee

☒ Convicted and sentenced prisoner

☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1: the City of New York
 First Name Last Name Shield #

Current Job Title (or other identifying information)

Current Work Address

Defendant 2: Carmine Semoli 5259
 County, City State Zip Code
 First Name Last Name Shield #

Lieutenant, New York City Police Department
 Current Job Title (or other identifying information)

Citywide Traffic Task Force, 138 West 30 Street,
 Current Work Address

N.Y. N.Y. 10007
 County, City State Zip Code

Defendant 3: Luis Torres 19168
 First Name Last Name Shield #

Police Officer, Bronx Court House 4-E26
 Current Job Title (or other identifying information)

215 East 161 Street,
 Current Work Address

Bronx, N.Y. 10451
 County, City State Zip Code

Defendant 4: Lindsey Robbles 9206
 First Name Last Name Shield #

Police Officer, 24 Precinct
 Current Job Title (or other identifying information)

151 West 100 Street
 Current Work Address

N.Y. N.Y. 10025
 County, City State Zip Code

United States District Court
Southern District of New York

Defendant Information

Defendant 5: Police Officer Juan Diaz,
Shield Number: 4060,
Current Work Address: 1 Police Plaza Path,
N.Y., N.Y. 10038

Defendant 6: Arresting Officer John Doe,
or Arresting Officer ■ Jane Doe,
Identification ■ Number: 947809,
■

Work Address: 24 Precinct, 151 West 100
Street, N.Y., N.Y. 10025

V. STATEMENT OF CLAIM

Place(s) of occurrence: subway platform of train station at 103 St., Broadway, Manhattan, N.Y.

Date(s) of occurrence: 11-2-2016

FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

On the date 11-2-2016, I was faced down lying on the subway platform. I suppose that a Police Officer at that time in the arrest of me - maybe stomped on my arm. That action broke an arm of mine...

For me to herein now try to establish the jurisdictional basis of the claim - or for the United States District Court for the Southern District of New York to have the subject matter jurisdiction - I think that the action which caused the break of my arm perhaps was in the violation of the right to due process of the law of the Fifth Amendment - and of the Fourteenth Amendment - of the Constitution of the United States.

Also, I believe that the aforementioned action of what I feel possibly was the use of excessive force - or brutality - by a Police Officer maybe was in violation of the Eighth Amendment - of the mentioned Constitution - which protects my right to be free of cruel and unusual punishments...

Furthermore, the reality of the situation appears to me to perhaps be that what seems to me to possibly be the use of excessive force - of the brutality - which caused the break of my arm maybe broke the law of the Fourth Amendment - of the aforesaid Constitution - by making the arrest - of the seizure - of me to be somewhat unreasonable, to an extent - of in a way - illegal.

Moreover, I am a ~~man~~ layman pertaining to the law. If I incorrectly raised the issues in this Complaint, or if I improperly raised any issue, or if I failed to raise the right issue, if this is not a problem for ~~you~~ you, I respectfully request of you that you will preserve my right ~~to~~ for me to later correctly raise the issues...

INJURIES:

If you were injured as a result of these actions, describe your injuries and what medical treatment, if any, you required and received.

I suffered with a broken arm, and a cast or a splint was put on that arm in Bellevue Hospital, 462 First Avenue, N.Y., N.Y. 10016.

VI. RELIEF

State briefly what money damages or other relief you want the court to order.

I want to get a million dollars (\$1,000,000.00). Also, I want for you to cause an investigation for you to find out the Police Officer which broke my arm, and I want for the Police Officer which broke my arm to receive disciplinary actions against him...

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS

By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

10-28-2019 _____
 Dated _____ Plaintiff's Signature _____
 David S. Owens
 First Name Middle Initial Last Name
 Auburn Correctional Facility, P.O. Box 618
 Prison Address
 Auburn, N.Y. 13024
 County, City State Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: 10-28-2019

Convicted Upon Plea Of Guilty

Conviction Date: January 17, 2017

-- Petit Larceny
PL155.25

Class A Misdemeanor

NCIC 2399

In Full Satisfaction of:

-- Criminal Possession Stolen Property-5th Degree
PL 165.40

Class A Misdemeanor

NCIC 2804

-- Resisting Arrest
PL 205.30

Class A Misdemeanor

NCIC 4801

Sentenced to: Term: Time Served
Sentence Date: January 17, 2017

↓ Cycle 112 ↑

Arrest/Charge Information

Arrest Date: November 02, 2016 05:23 pm (17:23:00)

Name: DAVID OWENS
Date of Birth: March 03, 1967
US Citizen:
Sex: Male
Race: Black
Ethnicity: Not Hispanic
Age at time of crime/arrest: 49
Address: 0 UNKNOWN, MANHATTAN, NY 10025
Fax Number: M46871
Place of Arrest: NYCPD 24
Arrest Type: Unknown
Date of Crime: November 02, 2016
Place of Crime: NYCPD 24
Criminal Justice Tracking No.: 67889384J
Arresting Agency: NYCPD PCT 024
Arresting Officer ID: 947809
Arrest Number: M16675321
Arraignment: New York County Criminal Court
Arrest Charges:

-- Reckless Endangerment-1st Degree PL120.25	Class D	Felony	Degree 1	NCIC 7099
-- Petit Larceny PL155.25	Class A	Misdemeanor	Degree 0	NCIC 2399
-- Criminal Possession Stolen Property-5th Degree PL165.40	Class A	Misdemeanor	Degree 5	NCIC 2804
-- Resisting Arrest PL205.30	Class A	Misdemeanor	Degree 0	NCIC 4801
-- Criminal Trespass 3rd: Railroad Right Of Way Or Yard PL140.10 Sub OG	Class B	Misdemeanor	Degree 3	NCIC 5707

Court Case Information

--Court: New York County Criminal Court Case Number: 2016NY065042

November 03, 2016

Initial Report Of Docket Number

November 03, 2016

Arraigned

-- Petit Larceny
PL155.25

Class A

Misdemeanor

NCIC 2399

-- Criminal Possession Stolen Property-5th Degree

PL105.40		Class A	Misdemeanor	NCIC 2804
-- Resisting Arrest				
PL205.30		Class A	Misdemeanor	NCIC 4801
-- Criminal Trespass 3rd: Railroad Right Of Way Or Yard				
PL140.10	Sub OG	Class B	Misdemeanor	NCIC 5707

November 03, 2016

Convicted Upon Plea Of Guilty - Conviction Date: November 03, 2016

-- Petit Larceny		Class A	Misdemeanor	NCIC 2399
PL155.25				

In Full Satisfaction of:

-- Criminal Possession Stolen Property-5th Degree		Class A	Misdemeanor	NCIC 2804
PL 165.40				
-- Resisting Arrest		Class A	Misdemeanor	NCIC 4801
PL 205.30				
-- Criminal Trespass 3rd: Railroad Right Of Way Or Yard		Class B	Misdemeanor	NCIC 5707
PL 140.10	Sub OG			

Sentenced to: Conditional discharge**Sentence Date:** November 03, 2016

November 03, 2016

Not Arraigned

-- Reckless Endangerment-1st Degree		Class D	Felony	NCIC 7099
PL120.25				

February 22, 2017

Bench Warrant Issued

April 05, 2017

Returned On Warrant

April 07, 2017

Resentenced, Violation Of Conditional Discharge

-- Petit Larceny		Class A	Misdemeanor	NCIC 2399
PL155.25				

Sentenced to: Term: 60 Day(s)**Sentence Date:** April 07, 2017

↓ Cycle 111 ↑

Arrest/Charge Information

Arrest Date: August 28, 2016 07:49 pm (19:49:00)

Name:	DAVID OWENS
Date of Birth:	March 03, 1967
US Citizen:	
Sex:	Male
Race:	Black
Ethnicity:	Not Hispanic
Age at time of crime/arrest:	49
Fax Number:	M37214
Place of Arrest:	NYCPD 19
Arrest Type:	Unknown
Date of Crime:	August 28, 2016
Place of Crime:	NYCPD 19
Criminal Justice Tracking No.:	67799008M
Arresting Agency:	NYCPD PCT 019
Arresting Officer ID:	958968

Printed: 27 Jun 17 1009:26

Bellevue Hospital Center
462 First Avenue
New York, NY 10016

MRN: 1415109

Patient: Owens, David

DOB: 03/03/1967

Sex: M Type: RP

Visit Date: 11/02/16 Visit#: 1415109-29

Location: emergency

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Outpatient Chart Print

All Events - continued

Thu, 03Nov:0345 Left Upr Ext CT w/o con Not Prtcl -- cont'd

visualized portion of the ulna are normal. Normal radial head and radius, without fracture. Evaluation of the distal humerus is limited by motion, without displaced fracture.

No significant elbow joint effusion. Normal elbow joint alignment. Mild soft tissue swelling overlying the extensor surface of the elbow. No air within the elbow joint.

Impression:

Nondisplaced coronoid process fracture.

Final report dictated by Molly Somberg and signed by Gopi Nayak 11/3/2016 5:51 AM

(03 Nov 16 0555)

Documentation History	Employee	Date/Time
new direct entry ordered by	Sig:Lau,Bern, MD, Emergency Department, Attending Physician (ESOF)	11/03/16 03:33
accessioned	Sig:Babot,Mark, RT Radiology, Radiology Technologist (ESOF)	11/03/16 03:55
documented by	Sig:Babot,Mark, RT Radiology, Radiology Technologist (ESOF)	11/03/16 04:02
documented by	computer generated	11/03/16 05:55
summary result review	Sig:Ryan,Devon, MD Orthopedic Surgery, Resident (ESOF)	11/05/16 07:31

to: Head Clerk, Pro Se Intake Unit, United States District Court, Southern District of New York

I enclosed the [REDACTED] amended Complaint in my attempt to comply with the Order of Service. I attached two pages of the arrest record of the date 11/2/2016- and one page of the hospital record of that date- to the amended Complaint for the reason that I want for you to see the connection between the arrest of me on the date 11-2-2016, and the treatment which I got at [REDACTED] the hospital on [REDACTED] that date for the broken arm which I suffered in the mentioned arrest.

The other reason for which I attached the pages of the arrest record to the amended Complaint is for you to see the Identification Number of the Arresting Officer for you to then know what caused me to list the Arresting [REDACTED] Officer of Identification Number 947809 in the list of Defendants in reference to the [REDACTED] amended Complaint.

I respectfully request of you that you will cause Judge James L. Cott to get a copy of this [REDACTED] letter, and a copy of the amended Complaint. Also, I

shall be grateful to you if you will ~~_____~~ ~~_____~~

soon reply in writing to this letter for you to
acknowledge to me that you received this
message, and the amended Complaint?

signed: David Owens

identification number: 18A2545

Docket Number: 19-cv-10213-GBD-JLC

address: Auburn Correctional Facility, P.O. Box
618, Auburn, N.Y. 13024

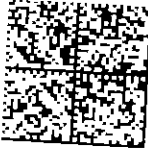
date: 3-9-2020

AUBURN CORRECTIONAL FACILITY
P.O. BOX 618
AUBURN, NEW YORK 13024

NAME: David Owens DIN: 18A2545



AUBURN CORRECTIONAL FACILITY



U.S. POSTAGE PITNEY BOWES

ZIP 13021 \$001.40
02 1W
0001387039MAR 09, 2020

TISMP3
Head Clerk, Pro Se Intake Unit, 500 Pearl
Street, Room 200, N.Y., N.Y. 10007
(United States District Court, Southern District
of New York)

RECEIVED
SDNY PRO SE OFFICE

Legal mail